
OSD Policy Guidance

The Operational Services Division
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04-19

To: Departments Heads, Affirmative Market Coordinators, POS Contract Managers, PMT Members, Chief Financial Officers, Chief Information Officers, and MMARS Liaisons
From: Philmore Anderson, State Purchasing Agent
Operational Services Division
Date: March 10, 2004
RE: Policy regarding use of Federal General Services Administration (GSA) contracts

Policy Purpose: This document explains the circumstances under which a Commonwealth department may use Federal Contracts established under the U.S. General Services Administration (GSA). Currently, access to Federal contracts is limited to Schedule 70 (Information Technology) contracts; however, this policy guidance applies to all GSA contracts that are now or may in the future be made available for use by states.

Eligible Entities: These rules apply to all Commonwealth departments required to follow MGL Chapter 7, Section 22 and MGL Chapter 30, Sections 51 and 52. Please note that there are GSA limitations to the use of GSA Schedule 70 contracts by cities/towns. Cities and towns subject to MGL Chapter 30B procurement requirements that have additional questions may wish to consult with the Inspector General's Office.

Background: As a result of the Homeland Security Act, states have been offered the opportunity to purchase off Federal Supply Schedule 70 contracts for specified Information Technology hardware, software and services. OSD has met with representatives of the General Services Administration and discussed the Federal procurement process relative to the requirements of the Commonwealth's procurement statutes, including MGL Chapter 7, Section 22, which requires that all Commonwealth procurements be conducted in a fair, open and competitive manner. As a result of that review, OSD has determined that departments may only use these GSA contracts under certain conditions and then only with prior written approval from OSD. This document explains those conditions and the procedures that Departments must follow to obtain prior approval from OSD.

OSD Authority: The Operational Services Division has statutory responsibility for establishing Statewide Contracts for commodities and services on behalf of Commonwealth departments which may also be used by other eligible entities. When OSD executes a Statewide Contract, a partnership between the Commonwealth and the contractor is established that commits the contractor to deliver services and commodities in accordance with the contract and equally commits Commonwealth departments to use that statewide contractor when purchasing. OSD is able to negotiate advantageous contract terms, including lower prices, based on the purchasing volume that the Commonwealth brings to the table. A preliminary review of GSA contracts indicates that, in many cases, OSD contracts have better prices and more favorable terms than the GSA contracts. As a result, it has been and will continue to be a requirement that Commonwealth departments use Statewide Contracts, assuming one is available, to meet their business needs.

Policy Requirements:**When a Statewide Contract exists for a commodity/service, but a department wants to use a GSA contract.**

Departments are not permitted to purchase from a GSA contract if there is an active Statewide Contract for that commodity/service. If a department believes it can negotiate better value using the GSA contract, it must send a written notification to the Operational Services Division to the attention of the State Purchasing Agent. OSD will negotiate with existing statewide contractors to "meet or beat" the GSA contract terms, if possible. If OSD determines that "best value" for a department can only be obtained through GSA contracts, it will approve this in writing on a case by case basis.

When a department needs a specific commodity/service but there is no statewide or department contract available.

A Department must notify the State Purchasing Agent at OSD, in writing, of its interest in purchasing off a GSA contract. After a discussion with the department, OSD will make a determination of the appropriate next steps including but not limited to the following:

- 1) Determine that there is a sufficient need for the commodity/service to justify OSD conducting a statewide procurement and then executing a Statewide Contract or;
- 2) Recommend that the department conduct a procurement for the necessary commodity/service using the GSA prices and contract terms as the benchmark for best value; or
- 3) Approve the department using the GSA contract(s) based on the collective purchase competitive procurement exception available under 801 CMR 21.05 (4) and under certain conditions in order to ensure that the GSA procurement satisfies the requirements of MGL Chapter 7, section 22. These conditions will include, among other requirements, that a department conduct a competitive solicitation using the list of "qualified" contractors on the GSA contract to ensure that the "fair, open and competitive" requirements of the Commonwealth's procurement statute are met.

OSD will respond to department requests for a specific commodity/service not on statewide contract, in writing, specifying what action(s) is necessary. Approval to use GSA contracts will be made on a case by case basis.

Copies of all written documentation of the GSA contract and instructions regarding use of GSA contracts must be maintained in the appropriate procurement file and will be reviewed by the OSD Quality Assurance Team.